

## suits & deals

### Apartment Complex to Pay \$3.7 Million for Stairway Fall Linked to Brain Injury

The owner of an apartment complex agreed to pay \$3.7 million on March 15 to settle a Middlesex County suit, *Higgins v. Sky-Top Gardens Inc.*, filed on behalf of a man with Down syndrome who suffered a brain injury when he fell on a defective stairway.

Dennis Higgins, now 62, a resident of the Sky-Top Gardens apartments in Woodbridge, was descending a concrete stairway leading to a laundry room at the complex on Nov. 26, 2016, when he fell forward and struck his head on a concrete wall, according to **Barry Eichen** of **Eichen Crutchlow Zaslow** in Edison, the attorney for the plaintiffs.

Higgins sustained a buildup of blood on the brain, a hairline fracture of the skull and multiple facial fractures. He was in a coma for four days and then stayed at a rehabilitation center for two months, the suit claimed.

Upon his return to his apartment, Higgins experienced ongoing cognitive defects that reduced his level of functioning, Eichen said. Before the accident, Higgins could do his own laundry and could go shop at stores, but since the accident, he is unable to perform those tasks and is frequently

nervous, and his enjoyment of life is reduced, according to Eichen.

Higgins' guardians ad litem, his brother Jerome Higgins and sister-in-law Virginia Lugo, sued Sky-Top Gardens on his behalf.

Higgins was unable to say what caused him to fall, and no video of the incident was available, Eichen said.

While he was in the hospital, Higgins' treating neurologist said he had a stroke that caused him to fall down the stairs, Eichen said. Lawyers for the apartment complex contended that the stroke cleared them of liability, Eichen said. They also claimed Higgins had previous problems with falls and losing balance, Eichen said.

Eichen in turn claimed that a section of crumbling concrete, about 10 inches square, on one of the steps caused Higgins to trip and fall. Eichen obtained a report from a biomechanical expert who opined that, based on where Higgins landed, he most likely stepped on the damaged portion of the stairway, causing him to fall. And an expert report from a neuroradiologist who examined Higgins' records said that he did not suffer a stroke, Eichen said.



BARRY EICHEN

COURTESY OF BARRY EICHEN

The \$3.7 million settlement was reached following mediation with Dennis O'Brien, a former Superior Court judge now with Wilentz, Goldman & Spitzer in Woodbridge.

Sky-Top Gardens had \$1 million in coverage through Holyoke Mutual Insurance Co. and an umbrella policy for \$10 million with Allied World Insurance.

The lawyer for Sky-Top Gardens, Ronald Citrenbaum of Donnelly Minter & Kelly in Morristown, confirmed the settlement.

— **Charles Toutant**